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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/621,151	07/15/2003	Terry Chou	13857 B	1211
36672	7590	07/21/2005	EXAMINER	
CHARLES E. BAXLEY, ESQ. 90 JOHN STREET THIRD FLOOR NEW YORK, NY 10038			MORAN, KATHERINE M	
			ART UNIT	PAPER NUMBER
			3765	

DATE MAILED: 07/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/621,151	CHOU, TERRY
	<b>Examiner</b>	<b>Art Unit</b>
	Katherine Moran	3765

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 20 June 2005.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) 2 and 4 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1,3 and 5-8 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 15 July 2003 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All
  - b) Some \*
  - c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                     | Paper No(s)/Mail Date. _____ .  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: _____ .                                  |

## **DETAILED ACTION**

### ***Election/Restrictions***

Applicant's election without traverse of 6/20/05 has been entered and reviewed. Applicant elected species 1 and has specified claims 1, 3, and 5-8 as corresponding to the elected species. Claims 2 and 4 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. An Office Action on the merits is detailed below.

### ***Drawings***

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference characters 2, 5, 8, and 92 have been used to designate the frame. Reference characters 3, 6, 7, and 9 have been used to designate the connecting block, and reference characters 31, 71, and 91 have been used to designate through-hole. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 3, and 5-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chou (U.S. 6,499,148 in view of Hirschmann (U.S.2,773,260). Chou discloses the invention substantially as claimed. Chou teaches a pair of diving/swimming goggles comprising a soft frame 2 having two outer sides each having an engaging portion 22 in the form of a ring, two lenses 1 mounted in the frame, and a head strap 5. The frame is bendable according to a head contour of a user, providing an intimate contact with two sides of the head of the user. Applicant's specification provides that the frame is flexible to prevent breakage, yet also has a supporting ability, and goes on to teach that the frame and bridge will not deform largely. Please note that the structure of the term "ring" has not been further defined by the claims and as such, has been given its broadest reasonable interpretation in accordance with examination procedures. In this case, the ring forms an encircling arrangement. However, Chou doesn't teach two connecting blocks respectively mounted to the engaging portions of the frame, with each block being pull-resistant and including a through hole for engaging with the head strap, each block being at least partially embedded in and thus fixed by a plastic material for forming the frame. Hirschmann teaches diving/swimming goggles including a plastic frame 11 (col. 3, lines 68-71) and a plastic lens portion 30 provided with pull-

resistant and ring-shaped connecting blocks 42 mounted to engaging portions of the lens, and including a through hole for engaging with the head strap 22. The blocks 42 are at least partially embedded in the plastic material and provides reinforcement to the through hole such that normal stresses transferred to the hole during adjustment of the goggles will not deform or otherwise damage the opening. Thus, Hirschmann teaches that it is known in the art to provide reinforcement in the form of a ring-shaped block mounted to applicable strap mounting portions of the goggles. With regard to claim 8, neither Chou nor Hirschmann teaches the soft frame and connecting blocks are integrally formed as a one-piece member. It would have been obvious to form the frame and blocks integrally since it has been held that forming in one piece and article which has formerly been formed in two pieces and put together involves only routine skill in the art. Therefore, it would have been obvious to one of ordinary skill in the art to provide Chou's engaging portions with the connecting blocks as taught by Hirschmann, in order to reinforce the ring structure of the engaging portion such that the head strap is comfortably held and easily adjusted in the respective frame portions.

### ***Conclusion***

4. The prior art made of record on the attached PTO-892, and not relied upon, is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications should be directed to Primary Examiner Katherine Moran at (571) 272-4990. The examiner can be reached on Monday-Thursday from 8:30 am to 6:00 pm, and alternating Fridays.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Calvert, may be reached at (571) 272-4983. The official and after final fax number for the organization where this application is assigned is (703) 872-9306. General information regarding this application may be obtained by contacting the Group Receptionist at (571) 272-3700.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Kmm

July 14, 2005



Katherine Moran

Primary Examiner, AU 3765